

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ARIGNA TECHNOLOGY LIMITED,

Plaintiff,

v.

VOLKSWAGEN AG et al,

Defendants.

Civil Action No. 2:21-cv-00054-JRG-RSP

**DECLARATION OF ALLISON LIND IN SUPPORT OF DEFENDANT MBUSA'S
MOTION TO DISMISS AND IN THE ALTERNATIVE TO TRANSFER**

I, Allison Lind, declare:

1. I am the Department Manager of Network Operations (Franchising) at Mercedes-Benz USA, LLC (“MBUSA”). I have been in that position since July 2020, and I have been employed at MBUSA since April 2003. I work in Sandy Springs, Georgia. I am responsible for Mercedes-Benz Dealer Network Development, including all aspects of Dealer Network optimization.

2. I provide this declaration in support of MBUSA’s motion to dismiss or transfer for improper venue. I have personal knowledge or have been informed by knowledgeable employees within MBUSA of the following, and if called as a witness, I could and would testify competently thereto.

3. MBUSA is a Delaware limited liability company presently headquartered in Sandy Springs, Georgia.

4. MBUSA has no offices or other facilities in the Eastern District of Texas.

5. MBUSA has never taken control of, or otherwise asserted ownership over, a third-party dealership in the Eastern District of Texas.

6. There are currently five third-party dealers in the Eastern District of Texas: Mercedes-Benz of Beaumont, Mercedes-Benz of McKinney, Mercedes-Benz of Plano, Mercedes-Benz of Texarkana, and Mercedes-Benz of Tyler (collectively “**Eastern District Dealers**”). MBUSA does not own or control any of the Eastern District Dealers. The Eastern District Dealers are not affiliates of MBUSA or any other entity related to Daimler AG.

7. MBUSA offers to sell and sells vehicles to the Eastern District Dealers from MBUSA’s Atlanta, Georgia headquarters. In particular, the third-party dealers pay MBUSA for their vehicles through the dealers’ wholesale floorplan account. Upon receipt of that payment, MBUSA delivers vehicles to dealers by placing them on vehicle carriers at vehicle preparation centers. Three of these centers are located at ports: Baltimore, Maryland, Brunswick, Georgia, and Long Beach, California. The remaining vehicle preparation center is located at Vance, Alabama. These carriers deliver the vehicles to each dealership.

8. The Eastern District Dealers operate independently from MBUSA pursuant to Texas law and the dealership agreements that these third-party dealers have entered into with MBUSA. None of the owners or operators or employees of the Eastern District Dealers are employees or agents of MBUSA. MBUSA is not involved in and does not control or dictate the hiring, firing, recruiting, or compensation of any employees of the Eastern District Dealers. MBUSA also does not own or control the property on which the Eastern District Dealers operate.

9. None of the Eastern District Dealers is an agent of MBUSA, nor do any of the Eastern District Dealers have the authority to bind MBUSA in any manner. MBUSA's relationship with each of the Eastern District Dealers was the result of an arms-length negotiation, resulting in a dealership agreement that expressly recognizes the third-party dealer as an independent business.

10. MBUSA does not design or control dealers' facilities for third-party dealers, including the Eastern District Dealers; third-party dealers, including the Eastern District Dealers, build their own facilities.

11. Third-party dealers' websites, including those of the Eastern District Dealers, do not represent or otherwise indicate that the dealership is owned or operated by MBUSA. Third-party dealers, including the Eastern District Dealers, are not authorized to hold themselves out as being affiliated with or as being a representative or agent for MBUSA in their signage, website, or marketing materials.

12. Third-party dealers, including the Eastern District Dealers, are authorized to use the "Mercedes-Benz" trademark and associated logos (which are all owned by Daimler not MBUSA), in conjunction with their business to indicate the vehicles that they sell—for example, on their websites and in signage for their dealerships. However, third-party dealers, including the Eastern District Dealers, may not use the Mercedes-Benz name by itself on marketing materials; instead, they are required to have both "a 'Mercedes-Benz' name panel and a dealer d/b/a name panel," unless the dealership name is of the form "M-B of City Name." The use of "Mercedes-Benz" in this latter instance is to indicate the products that are sold, i.e., Mercedes-Benz vehicles.

13. In the event that a dealership agreement is terminated, MBUSA would have no rights under the agreement to take over the dealership.

14. MBUSA generally conducts the same sales support activities for all third-party Mercedes-Benz vehicle dealerships throughout the United States.

15. Customers are able to view available vehicle inventory at the third-party dealerships from MBUSA's website, but must ultimately obtain price quotes or schedule a test drive directly through the third-party dealership, either by submitting an inquiry to the third-party dealership or by visiting the third-party dealership's website. MBUSA's website redirects customers to third-party dealerships, with which customers directly interact to purchase Mercedes-Benz vehicles. MBUSA's website also directs customers to third-party dealerships for warranty services. The Eastern District Dealers are competing with one another within the Eastern District of Texas to sell and service Mercedes-Benz vehicles.

Executed on May 3rd, 2021 in Sandy Springs, Georgia.

A handwritten signature in black ink, appearing to read "Allison Lind", is positioned above the printed name.

Allison Lind